

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20300
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On April 16, 2007, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] [[Redacted]] (taxpayer) proposing income tax, penalty, and interest for the taxable years 1999 through 2005 in the total amount of \$17,843.

On June 18, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has not provided any other additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission received an information return (1099) that showed the taxpayer had income in excess of the filing requirement for tax year 2003. The Tax Discovery Bureau (Bureau) researched the Tax Commission's records and found that the taxpayer stopped filing Idaho individual income tax returns after he filed his 1998 return. The Bureau sent the taxpayer letters asking about his requirement to file Idaho individual income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file Idaho income tax returns for the years 1999 through 2005.

The Bureau prepared income tax returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination. The taxpayer stated the Bureau's estimate of his tax liability was in error due to a bankruptcy that was filed for

some of the years in question. The taxpayer stated he did not earn the same income or any income for those years. He asked that the Bureau allow him time to get his records figured out. He stated he would work diligently to become current with his income tax filings.

The Bureau allowed the taxpayer additional time, and he provided an income return for 1999. The Bureau reviewed the taxpayer's 1999 return and determined it was unacceptable because it did not contain copies of all the necessary forms and schedules. The Bureau asked the taxpayer to provide the missing forms and schedules for his 1999 return as well as the other missing income tax returns. The taxpayer failed to provide either. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the taxpayer's case and sent him a letter discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer did not respond. The Tax Commission sent a follow-up letter to the taxpayer, but still he failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

Idaho Code section 63-3030 states that every individual who has gross income for the taxable year in excess of the personal exemption amount plus the basic standard deduction applicable to his filing status is required to file an Idaho income tax return. Information available to the Tax Commission shows the taxpayer had gross income in excess of that amount for 1999, 2002, 2003, and 2005. Other information showed the taxpayer paid mortgage interest in 1999 through 2002 that nearly matched or exceeded the filing threshold. Using this information, the Bureau determined the taxpayer had income in excess of Idaho's filing requirements. The Bureau used a formula to determine the taxpayer's income for each year and determined the taxpayer's tax liability for that income.

The taxpayer did provide a return for the tax year 1999. That return showed the taxpayer as a head of household with a dependent son. The taxpayer reported income from rents, royalties, partnerships, S-corporations, or trusts; however, he failed to provide a copy of the Schedule E detailing where the income was derived. The taxpayer also reported self-employment tax on his income. However, the income he reported for self-employment tax purposes was far greater than the income he reported for income tax purposes. Because the taxpayer failed to include or provide a copy of his Schedule E and because the income amounts for self-employment tax versus income tax were so different, the Bureau did not accept the taxpayer's 1999 income tax return.

In Idaho, a State Tax Commission deficiency determination is presumed to be correct, and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer failed to meet his burden for the tax years 2000 through 2005. The taxpayer attempted to meet his burden for 1999 by submitting a 1999 income tax return. Generally, the submission of an income tax return is sufficient to overcome the presumed correctness of a deficiency determination. However, in this case, the taxpayer's income figures do not agree from schedule to form, and the return is missing a needed schedule. As a result, the taxpayer's 1999 return creates more questions about his tax liability than it answers. Consequently, the Tax Commission does not find the taxpayer's 1999 return as being more accurate than the return prepared by the Bureau. Nevertheless, the Tax Commission will accept the taxpayer's filing status and additional exemption as reported on his 1999 return.

Since the taxpayer has failed to provide anything to show the returns the Bureau prepared for 2000 through 2005 were in error, the Tax Commission upholds the Bureau's determination of

the taxpayer's taxable income. As for the 1999 tax year, the Tax Commission finds that the taxpayer's return has additional information not reflected on the Bureau's return for 1999. Therefore, the Tax Commission modifies the taxpayer's 1999 return to correct his gross income to the amount reported as self-employment income.

The Bureau added interest and penalty to the taxpayer's tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 36-3046.

WHEREFORE, the Notice of Deficiency Determination dated April 16, 2007, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$ 926	\$232	\$483	\$ 1,641
2000	1,288	322	568	2,178
2001	1,347	337	490	2,174
2002	1,763	441	529	2,733
2003	2,352	588	581	3,521
2004	1,380	345	258	1,983
2005	2,278	570	289	<u>3,137</u>
			TOTAL DUE	<u>\$17,367</u>

Interest is computed to March 15, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.